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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/654,797	
	Filing Date	September 4, 2003	
	First Named Inventor	Gregory S. Marler	
	Art Unit	3743	
	Examiner Name	Nihir Patel	
Total Number of Pages in This Submission	6	Attorney Docket Number	3418-A-23

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
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<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Table 1
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	Sheets 2 and 5 of drawings
<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks	Postcard
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	William C. Cahill Cahill, von Hellens & Glazer P.L.C.
Signature	
Date	July 8, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

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Signature	
Date	July 8, 2004

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TFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXAMINER: Nihir Patel
APPLICANT: Marler et al.
SERIAL NO.: 10/654,797
FILED: September 4, 2003
FOR: HEAT AND MOISTURE FILTER EXCHANGER AND METHOD

Docket No. 3418-A-23
Date: July 8, 2004
Art Unit: 3743

RESTRICTION REQUIREMENT RESPONSE

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

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July 8, 2004	
(Date of Deposit)	
William C. Cahill	
Name of applicant, assignee or Registered Rep.	
Signature	Date
	7/8/04

Dear Sir:

In response to the Office Action of June 15, 2004, applicants respectfully traverse the requirement for election and respectfully request the withdrawal of the requirement. The examiner has stated "Currently no claims are generic". Applicants do not understand this statement. For example, at least Claim 1 is believed to be clearly generic to all species disclosed in the application.

Applicants attach hereto copies of figures of the drawings present in the case with notations in red thereon to facilitate correlating the elements shown in the figures of the two species with the corresponding elements recited in Claim 1. It is believed that the accompanying table and copies of relevant figures demonstrate that at least Claim 1 is generic to both species.

However, to comply with the requirements of 37 C.F.R. 1.141, applicants hereby make the following election:

Provisional Election

Applicants provisionally elect the species shown in Figures 2, 2A, 3, 4, 5 and 6. It is believed Claims 1, 2, 3, 7, 8, 9, 12 and 13 are applicable to this species.

Respectfully submitted,

CAHILL, VON HELLENS & GLAZER P.L.C.

A handwritten signature in black ink, appearing to read 'W. Cahill', is written over the printed name.

William C. Cahill

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Docket No. 3418-A-23

Restriction Requirement Response

<u>Claim elements of Claim 1</u>	<u>Species of Figs. 2, 2A, 3, 4, 5 & 6</u>	<u>Species of Figs. 7, 8, 9, 10</u>
(a) a housing...	40, 50	400,500
a ventilator-side port...	21	21
the housing also having a patient side port...	25	25
(b) a structure within the housing forming a first path...	Path A in Fig. 3	Path A in Fig. 8
from ventilator side port...	21	21
through moisturizing medium...	15	15
and a second path...	Path B in Fig. 3	Path B in Fig. 8
(c) a two-way valve mechanism...	23	230

Table 1

Attachment to Restriction Requirement Response